Introduction to Law and Management in Sport

Chapter 1

Law and Sport

Law is inextricably woven into the fabric of sport and recreation organizations and impacts a wide range of management issues.

Situation	*Legal Theory*
A university football coach leaves to coach at another university.	Contract law
A professional sports team has an issue with the "salary cap" in signing a player.	Collective bargaining and contract law
A prosecutor charges an athlete with sexual assault.	Criminal law
A female basketball coach at a college asserts that she should be paid the same as the men's basketball coach.	Equal Pay Act and Title VII (federal statutes)
A youth sport organization is held liable for a coach who molested a team member.	Tort law – negligent hiring
A health club and equipment manufacturer are liable for injury when weight equipment malfunctions.	Tort law – negligence; products liability
Football players sue the NFL and the NCAA regarding the organizations' policies and procedures pertaining to concussions.	Negligence, fraudulent concealment
A sport business names its sports apparel with a name very similar to another product name.	Trademark law
A public high school requires the delivery of a prayer over the public address system before all home football games.	Constitutional law – First Amendment
A company terminates an endorsement contract with an athlete who was accused of criminal conduct.	Contract law
A whitewater rafting company uses a waiver to avoid liability for its own negligence.	Tort and contract law
A university eliminates the women's gymnastics team and the men's baseball team.	Title IX (a federal statute)
NCAA student-athletes sue the NCAA and videogame manufacturers based on their use of athletes' likenesses in games, and regulations prohibiting them from profiting from their name, image, or likeness.	Right of publicity & Anti-trust

Who Needs to Know About the Law?

All managers in professional, collegiate, Olympic, and youth sport such as

- CEOs and Managers
- Program supervisors
- Physical educators
- Coaches
- Athletic Administrators
- Fitness club employees

Legal Review

What sports stories are currently in the news?

What legal issues, if any, are involved?

Do you agree there is no such thing as sport law or that there is a separate body of knowledge about sport and the law?

Knowledge of the Law as a Competitive Advantage

To create value and increase profitability

To help the organization run more efficiently

To attract clients/participants

To better serve the needs of your constituents

To draft policies/procedures/contracts that will help avoid or minimize liability

Knowledge of the Law Is Important . . .

- To avoid lawsuits or lessen their consequences
- To help create better policies and procedures
- To make organizations safe, hospitable, and ethical
- To solve real-life problems in the sport enterprise

Management & Supervision

- Hire and oversee personnel
- Supervise sport and recreation participants
- Provide sport and activity instruction
- Administer sport/recreation programs and facilities

How could your knowledge of the law help you with various managerial activities?

Business Strategy & Operations

- Human resources management
- Strategic management/governance
- Operations management
- Marketing management

How could your knowledge of the law help you with various business functions—to achieve a competitive advantage?

Preventive Law Process

1. Identify risk (the legal audit)
2. Assess risk
3. Evaluate risk
4. Design the preventive law plan
5. Implement the preventive law plan

Risk Identification – The Legal Audit

Legal Landscape for Potential Liability:

- **Holistic Review**
  - Activities; Structures; Operations; Policies; Procedures; Patterns in Lawsuits or Complaints
- **Evaluate Risks Beyond Traditional Risk Management which may be primarily focused on premise liability and personal injury**
  - Employment Issues; Discrimination; Working Conditions; Facility Safety; Client Relations; Sales Contracts; Intellectual Property; Advertising;

Legal Review

Think about your gym or health club. Can you identify examples of where the owners and managers have thought about liability concerns?

Have you been to places where liability concerns have apparently *not* been thought through?

Risk Assessment

- Type of Risk
- Impact of the Risk on Business Operations
- Frequency with which the Impact is likely to be experienced

Assessment of Premises Liability Risks

Type of Risk	*Frequency of Risk*	*Magnitude of Risk*	*Handling the Risk*
Potential liability for a member over-consuming or drunk driving	Occasional	Severe – fatality could result	Implement strict purchase limits and review staff training
Potential liability for personal injury	Occasional	Moderate – serious injury could occur	Prohibit use of facility while under the influence; review and update membership agreement and usage policies
Increased costs to secure licenses and permits	Frequent	Slight	Determine cost breakeven point between sales and licensing costs
Increased labor costs	Frequent	Moderate	Determine options to use independent contractors to operate alcohol sales; limit sales to certain hours and use flexible staffing
Increased inventory costs	Occasional	Slight	Track beer and wine sales individually to calculate itemized profit projections

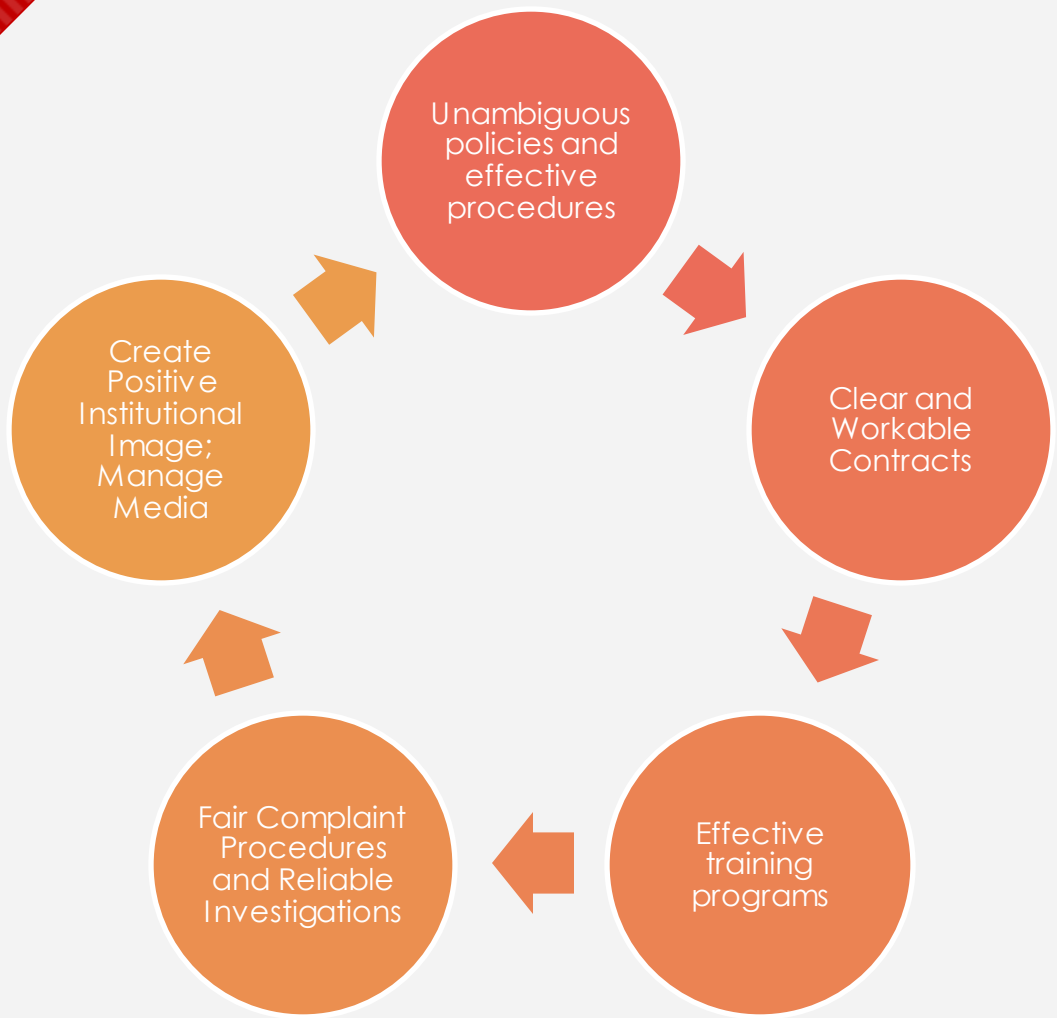
Risk Evaluation

Evaluate	Evaluate risks in conjunction with the organization's mission and importance of activities to determine which preventive law strategy to adopt.
Develop	Develop Preventive Law Plan to Implement your Preventive Law Strategy

Developing a Preventive Law Plan

- Risk elimination
- Risk retention
- Risk transfer
- Risk control

Elements of a Preventive Law Plan


Unambiguous policies and effective procedures
Clear and Workable Contracts
Effective training programs
Fair Complaint Procedures and Reliable Investigations
Create Positive Institutional Image; Manage Media

Implementing a Preventive Law Plan

1

Confirm that the plan is consistent with your core values.

2

View the plan as a management tool.

3

Make sure all members of the organization:

- Understand its importance.
- Implement strategies in their areas of expertise.

Competitive Advantage Strategies

- Use this as another opportunity to be more competitive.
- View the preventive law plan as an extension of your core values.
- Do not eliminate activities to reduce risk, unless it's necessary.
- Use all available risk transfer strategies.
- Make sure employees understand and are involved in developing the plan.
- Allocate sufficient time/resources to developing the plan.